

Attorney Docket No. 9310.13DVCTDV  
Serial No.: 10/036,729  
Filed: December 21, 2001  
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### **REMARKS**

Claims 6-9, 26, 27 and 32-34 are pending in this application. Claim 6 is amended herein to point out particular features of the claimed invention so as to expedite the prosecution of the present application to allowance in accordance with the USPTO Patent Business Goals (65 Fed. Reg. 54603, September 8, 2000). Support for this amendment is found in the language of the original claims and throughout the specification, as set forth below. This amendment has been included to put this application in better condition for allowance and introduces no new matter, and Applicants respectfully request entry thereof. In light of this amendment and the following remarks, applicants respectfully request reconsideration of this application and allowance of the claims to issue.

#### **I. Allowed claims**

Applicants gratefully acknowledge that claims 7, 8, 26, 27 and 32-34 are allowed.

#### **II. Rejection under 35 U.S.C. § 102(b)**

The Office Action states that claims 6 and 9 continue to be rejected for allegedly being anticipated by Ambinder et al. (1989).

Applicants reiterate their previous arguments that claim 6(a) can be reasonably interpreted to be limited to variants of VCA p18/p40 and thus not anticipated by Ambinder et al., which applicants have previously pointed out does not disclose any nucleic acids encoding VCA p18/p40 peptides. However, to expedite prosecution of all of the claims of this application to issue, claim 6 is amended herein to recite an isolated nucleic acid sequence encoding a peptide immunochemically reactive with antibodies to the Epstein Barr Virus (EBV) VCA-p18 or VCA-p40 proteins, comprising an epitope of the VCA-p18 or VCA-p40 protein, encoded within the EBV open reading frames BFRF3 and BdRF1, respectively and wherein said antibodies are antibodies having the same reactivity with VCA-p18 as antibodies produced by the hybridomas deposited at the European Collection of Animal Cell Cultures under deposit numbers 93020413 or 93020412 or antibodies having the same reactivity with VCA-p40 as antibodies produced by

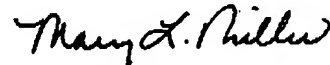
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the hybridoma deposited at the European Collection of Animal Cell Cultures under deposit number 93020414, thereby addressing the Examiner's concerns. Support for this amendment is found in the specification at least on pages 15-16. Thus, Ambinder et al. does not anticipate claims 6 and 9 as presented herein and applicants respectfully request withdrawal of this rejection and allowance of all pending claims to issue.

The points and concerns raised in the outstanding Office Action having been addressed in full, it is respectfully submitted that all of the claims of this application are in condition for allowance, which action is respectfully requested. Should the Examiner have any remaining concerns, the Examiner is invited and encouraged to contact the undersigned attorney directly by telephone before any further actions are issued in order to expedite the prosecution of this application to allowance.

No fee is believed due with this response. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,



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**CERTIFICATION OF FACSIMILE TRANSMISSION  
UNDER 37 CFR § 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office via the central facsimile number 571-273-8300 on November 24, 2006 and is addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Mary L. Miller